IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.27 OF 2005

Mr.Suresh Gaggar. ... Petitioner

vs.

Harish Chandra Gutt & Co.Pvt.Ltd. .... Respondents.

Mr.Z.Andhyarujina i/b. Prarthana K., for Petitioner.

Mr.Sham Diwan i/b. P.G.Pravin, for Respondents.

CORAM: D.K.DESHMUKH,J.

DATED: 20th September,2005

P.C.:-

1. By this petition, the petitioner challenges the Award made by the Arbitral Tribunal as also the Appellate Arbitral Tribunal holding that the counterclaim made by the petitioner was barred by Law of Limitation. Both the Arbitral Tribunal and the Appellate Arbitral Tribunal has held that the cause of action accrues to the petitioner in March,2000, whereas the counterclaim was made in the year 2003. According to the petitioner, he owes certain amount to

the respondents on account of certain transactions that were undertaken by the respondents on behalf of the petitioner, and towards repayment of that amount the petitioner handed over shares to the respondents in January,2000, March,2000, and May,2000. The shares were given to the respondents with the understanding that the respondents would realise the amount and satisfy its dues and make over the balance amount to the petitioner. The respondents however sold the shares in the year 2002. By the counterclaim, the petitioner was claiming the price of the shares prevalent in March,2000. The conduct of the petitioner of claiming price of the shares prevalent in March,2000 shows that even according to the petitioner the cause of action for making the claim accrued in the month of March,2000, otherwise there was no justification for the petitioner to claim price of the shares prevalent in the month of March,2000. In my opinion, therefore, the conclusion concurrently arrived at by both the Arbitral Tribunals cannot be faulted. As I find no fault with the findings recorded by both the Arbitral Tribunals, the petition is liable to be dismissed. It is accordingly, dismissed. No order as to costs.